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OFFICE OF PETITIONS

In re Application of  
Karp et al.  
Application No. 09/922,551  
Filed: August 2, 2001  
Attorney Docket No. 10980981-1

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ON PETITION

This is a decision on petition to withdraw the holding of abandonment under 37 CFR 1.181 filed August 9, 2004.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This application was held abandoned November 14, 2001 for failure to timely reply to the Notice to File Corrected Application Papers mailed on September 13, 2001. The Notice to File Corrected Application Papers set a two (2) month extendable time period for reply. A Notice of Abandonment was mailed July 6, 2004.

Petitioner asserts that a reply to the Notice to File Corrected Application Papers was submitted on November 9, 2001. As evidence, petitioner has submitted a copy of the reply which contains four (4) sheets of drawings, and a certificate of mailing dated November 9, 2001 pursuant to 37 CFR 1.8. Petitioner has also provided a copy of a postcard receipt with an Office stamp of January 8, 2002.

Pursuant to 37 CFR 1.8, correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the

correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. The Office may require additional evidence to determine if the correspondence was timely filed.

Petitioner has failed to meet requirement (3). Petitioner has established that the correspondence was received in the Office on January 8, 2002 via the postcard receipt. However since the date on the postcard receipt is not within the shortened statutory time period of reply, petitioner has failed to establish that the correspondence was timely mailed.

Petitioner must provide a statement which attest on personal knowledge that the documents were mailed on November 9, 2001. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). A review of the certificate of mailing shows that it was executed by Ana Jesus. A statement has not been provided by Ms. Jesus nor has Attorney Knight provided a sufficient statement.

To the extent petitioner is unable to provide a statement, a two month extension of time fee will be charged to the deposit account before the holding of abandonment can be withdrawn.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition  
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P.O. Box 1450  
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By delivery service: U.S. Patent and Trademark Office  
(FedEx, UPS, DHL, etc.) Customer Service Window,  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

A handwritten signature in black ink, appearing to read "Charlema R. Grant". The signature is fluid and cursive, with the first name "Charlema" being more prominent and the last name "Grant" following in a similar style.

Charlema R. Grant  
Petitions Attorney  
Office of Petitions